

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 07-292
v.	:	DATE FILED: _____
STEPHEN ANDERSON, a/k/a Stephen McKibben	:	VIOLATIONS: 21 U.S.C. § 846 (conspiracy to distribute controlled substances – 1 count) 21 U.S.C. § 841(a)(1) (possession with intent to distribute controlled substances – 2 counts) 21 U.S.C. § 924(c)(1) (possession of firearm in furtherance of drug trafficking – 1 count) 21 U.S.C. § 922(g)(1) (felon in possession of firearm – 1 count) 18 U.S.C. § 3146(a) (failure to appear – 1 count) 18 U.S.C. § 2 (aiding and abetting) 21 U.S.C. § 853 (forfeiture)

SUPERSEDING INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this information:

1. J.B. was a physician licensed by the Commonwealth of Pennsylvania and practicing out of an office located in Philadelphia, PA. Although J.B. purported to operate a

legitimate medical practice, it was in reality a prescription “pill mill,” at which so-called patients (“customers”) obtained, for a fee, medical prescriptions for controlled and non-controlled prescription drugs, without there being any medical necessity for these prescriptions.

2. From in or around 2001 until on or about July, 2006, defendant STEPHEN ANDERSON, a/k/a Stephen McKibben (“ANDERSON”), was a frequent customer of J.B., purchasing fraudulent prescriptions for controlled substances under his own name and other names.

3. Title 21, United States Code, Sections 801-971, also known as the Controlled Substances Act (“the Act”), governs the manufacture, distribution, and dispensing of controlled substances in the United States.

4. Title 21, United States Code, Section 841, provides that “[e]xcept as authorized, it shall be unlawful for any person to knowingly or intentionally manufacture, distribute, or dispense with intent to manufacture, distribute or dispense, a controlled substance.”

5. Title 21, United States Code, Section 802(10), provides that the term “dispense” means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for delivery.

6. Title 21, United States Code, Section 821, provides that “[t]he Attorney General [of the United States] is authorized to promulgate rules and regulations. . .relating to the registration and control of the manufacture, distribution and dispensing of controlled substances.”

7. The Attorney General of the United States has exercised his rulemaking authority regarding the dispensing of controlled substances through the promulgation of Title 21, Code of Federal Regulations, § 1306.04, governing the issuance of prescriptions, which provides:

- (a) a prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act [21 U.S.C. § 829] and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the law relating to controlled substances.

8. Under the Controlled Substances Act, there are five schedules of controlled substances – Schedules I, II, III, IV, and V. Controlled substances are scheduled into these levels based upon their potential for abuse, among other things. Schedule II controlled substances have a high potential for abuse among drugs with an accepted medical use and may lead to severe psychological or physical dependence. Abuse of Schedule III controlled substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of Schedule IV and V controlled substances may lead to more limited physical dependence or psychological dependence compared with the drugs or other substances in Schedule III.

9. Oxycodone is the generic name for an addictive prescription painkiller that is classified under the Controlled Substances Act as a Schedule II controlled substance. When oxycodone is legally prescribed for a legitimate medical purpose, it is typically used to combat acute, severe pain. Accordingly, the prescription is usually for a modest number of pills

to be taken over a short period of time. Brand names for common Schedule II controlled substances containing oxycodone include Percocet, Endocet, and Roxicet. Oxycodone is also the active ingredient in the brand OxyContin, legitimately prescribed for the treatment of moderate-to-severe pain lasting more than a few days. Because of its controlled release property, each OxyContin tablet contains more of the active ingredient oxycodone and needs to be taken less often (twice a day) than other oxycodone-containing drugs.

10. Hydrocodone is the generic name for an addictive prescription painkiller that is classified under the Controlled Substances Act as a Schedule II controlled substance. It is classified as a Schedule III controlled substance when dispensed in amounts of not more than 15 milligrams per dosage unit when combined with other ingredients in recognized therapeutic amounts. When hydrocodone is legally prescribed for a legitimate medical purpose, it is typically used to combat acute, severe pain. Accordingly, the prescription is usually for a modest number of pills to be taken over a short period of time. Lorcet is a brand name for a Schedule III controlled substance containing hydrocodone. Hydrocodone is also found in the Schedule III cough syrup called Tussionex.

11. Alprazolam, more commonly referred to by one of its brand names, Xanax, is the generic name for an addictive prescription sedative and anti-anxiety agent that is classified under the Act as a Schedule IV controlled substance.

12. Promethazine with Codeine, the generic name for a schedule V narcotic sometimes branded as Phenergan with Codeine, is used for the temporary relief of coughs and upper respiratory symptoms associated with allergy or common cold.

13. From in or around 2001 through in or around July 2006, in Philadelphia and elsewhere in the Eastern District of Pennsylvania, defendant

**STEPHEN ANDERSON,
a/k/a “Stephen McKibben,”**

and J.B. conspired and agreed with each other, and with others known and unknown to the United States Attorney, to knowingly and intentionally distribute and dispense, outside the usual course of professional practice and for no legitimate medical purpose, mixtures and substances containing detectable amounts of various controlled substances, including oxycodone (a Schedule II controlled substance), hydrocodone (a Schedule III controlled substance), alprazolam (a Schedule IV controlled substance), and codeine (a Schedule V controlled substance), in violation of Title 21, United States Code, Section 841(a)(1).

MANNER AND MEANS

It was a part of the conspiracy that:

14. J.B. wrote and gave to defendant ANDERSON and other customers fraudulent prescriptions for the Schedule II, III, IV, and V substances listed above at various locations in and around Philadelphia, including from his office and his condominium, in Philadelphia, PA.

15. The prescriptions J.B. wrote for defendant ANDERSON and other customers were fraudulent in that there was no medical necessity for these prescriptions, and they were issued outside the usual course of professional practice.

16. Defendant ANDERSON and other customers obtained from J.B. fraudulent prescriptions under multiple false names.

17. J.B. provided no physical examination or other medical care or treatment to defendant ANDERSON or other customers that would justify or necessitate, or was related to, the fraudulent prescriptions J.B. wrote for defendant ANDERSON and other customers.

18. Defendant ANDERSON and other customers paid J.B. approximately \$50 per fraudulent prescription, and, in some instances, J.B. solicited sexual favors in exchange for the fraudulent prescriptions.

19. After obtaining fraudulent prescriptions in one or more names from J.B., defendant ANDERSON and the customers went to pharmacies in and around Philadelphia willing to fill the fraudulent prescriptions, and obtained the controlled substances unlawfully prescribed by J.B.

20. Customers of J.B. introduced other persons to J.B. so that those persons could also obtain fraudulent prescriptions for controlled substances from J.B. for ultimate unlawful distribution of the controlled substances.

21. J.B. purchased controlled substances from a wholesale drug distributor, which he then resold to defendant ANDERSON and other customers, outside the course of professional practice and for no legitimate medical purpose, in exchange for cash.

OVERT ACTS

In furtherance of the conspiracy and to accomplish its objects, the following overt acts, among others, were committed in the Eastern District of Pennsylvania:

1. On or about April 15, 2002, defendant ANDERSON filled a fraudulent prescription written by J.B. in the name "Stephen Anderson" for 60 40 mg. tablets of OxyContin containing oxycodone, a Schedule II controlled substance.

2. On or about November 17, 2003, defendant ANDERSON filled a fraudulent prescription written by J.B. in the name "J.L." for 100 5 mg. tablets of Endocet containing oxycodone, a Schedule II controlled substance.

3. On or about May 25, 2004, defendant ANDERSON filled a fraudulent prescription written by J.B. in the name "K.A." for 100 5 mg. tablets of Endocet containing oxycodone, a Schedule II controlled substance.

4. On or about October 5, 2004, defendant ANDERSON filled a fraudulent prescription written by J.B. in the name "Stephen Anderson" for 100 5 mg. tablets of Endocet containing oxycodone, a Schedule II controlled substance.

5. On or about June 25, 2005, defendant ANDERSON filled a fraudulent prescription written by J.B. in the name "E.E." for 100 5 mg. tablets of Endocet containing oxycodone, a Schedule II controlled substance.

6. On or about February 20, 2006, defendant ANDERSON filled a fraudulent prescription written by J.B. in the name "Stephan Anderson" for 100 5 mg. tablets of Endocet containing oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 846.

COUNT TWO

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. Paragraphs 1 through 12 and 14 through 21 of Count One are incorporated here.

2. Between in or around 2001 through in or around July 2006, in Philadelphia, and elsewhere, in the Eastern District of Pennsylvania, defendant

**STEPHEN ANDERSON,
a/k/a “Stephen McKibben,”**

knowingly and intentionally possessed with intent to distribute the following mixtures and substances: Endocet, Roxicet, and OxyContin tablets (all containing oxycodone, a Schedule II controlled substance); Lorcet tablets and Tussionex syrup (both containing hydrocodone, a Schedule III controlled substance); Xanax tablets (containing alprazolam, a Schedule IV controlled substance), and Phenergan syrup (containing codeine, a Schedule V controlled substance).

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

COUNT THREE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

On or about October 9, 2006, in Philadelphia, in the Eastern District of
Pennsylvania, defendant

**STEPHEN ANDERSON,
a/k/a “Stephen McKibben,”**

knowingly and intentionally possessed with intent to distribute approximately 93 tablets
containing a detectable amount of alprazolam, a Schedule IV controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(2).

COUNT FOUR

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

On or about October 9, 2006, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**STEPHEN ANDERSON,
a/k/a “Stephen McKibben,”**

knowingly possessed a firearm and ammunition, that is, a .40 caliber Smith & Wesson semiautomatic handgun, Model SW40F, with an obliterated serial number, loaded with 16 Remington cartridges, in furtherance of a drug trafficking crime for which he may be prosecuted in a court of the United States, that is, possession with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

In violation of Title 18, United States Code, Section 924(c)(1).

COUNT FIVE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

On or about October 9, 2006, in Philadelphia, in the Eastern District of
Pennsylvania, defendant

**STEPHEN ANDERSON,
a/k/a “Stephen McKibben,”**

having been convicted in a court of the Commonwealth of Pennsylvania of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm, that is, a .40 caliber Smith & Wesson semiautomatic handgun, Model SW40F, with an obliterated serial number.

In violation of Title 18, United States Code, Section 922(g)(1).

COUNT SIX

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

On or about May 29, 2007, in Philadelphia, in the Eastern District of
Pennsylvania, defendant

**STEPHEN ANDERSON,
a/k/a “Stephen McKibben,”**

having been charged by the United States Attorney with alleged violations of federal criminal laws, and having been released on bail under certain conditions, pursuant to Title 18, United States Code, Section 3142(c), knowingly failed to appear before a court as required by the conditions of his release on bail.

In violation of Title 18, United States Code, Section 3146(a)(1).

NOTICE OF FORFEITURE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. As a result of the violations of Title 21, United States Code, Sections 846 and 841(a)(1), set forth in this information, defendant

**STEPHEN ANDERSON,
a/k/a “Stephen McKibben,”**

shall forfeit to the United States of America:

(a) any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offenses; or

(b) any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses,

including, but not limited to: (i) the sum of \$118,300; and (ii) a .40 caliber Smith & Wesson semiautomatic handgun, Model SW40F, with an obliterated serial number, loaded with 16 Remington cartridges, taken from defendant ANDERSON by Philadelphia police on October 9, 2006.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided
without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to
seek forfeiture of any other property of the defendant up to the value of the property subject to
forfeiture.

All pursuant to Title 21, United States Code, Section 853.

PATRICK L. MEEHAN
UNITED STATES ATTORNEY